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CITY OF BURBANK, including the Police
13 Department of the City of Burbank

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES

16 OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
17 ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

18 Plaintiffs,

19 -vs-

20 BURBANK POLICE DEPARTMENT;
21 CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
22 DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
23 KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

24 Defendants.
25

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANT'S REPLY IN
SUPPORT OF MOTION *IN LIMINE*
NO. 6 TO EXCLUDE EVIDENCE OR
ARGUMENT RELATING TO ANY
PROTECTED CLASS OF WHICH
KARAGIOSIAN IS NOT A
MEMBER, INCLUDING AFRICAN-
AMERICANS, HISPANICS, AND
FEMALES**

Trial Date: June 8, 2011 (Pltf. Karagiosian)
Discovery Referee: Hon., Diane Wayne, Ret.

Action filed: May 28, 2009

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1 **I. PLAINTIFF'S OPPOSITION IGNORES THE BINDING AUTHORITY OF THOMPSON**
2 **V. CITY OF MONROVIA.**

3 In his Opposition, Plaintiff *completely ignores* the *binding authority* of the Court of
4 Appeals recent decision in *Thompson v. City of Monrovia* (2010) 184 Cal.App.4th 860,
5 which unequivocally held that a claim of harassment based on race or national origin cannot
6 be based on the harassment of other employees where the plaintiff is not a member of the
7 protected class. That is the state of the law in California and this Court cannot likewise
8 ignore binding precedent.

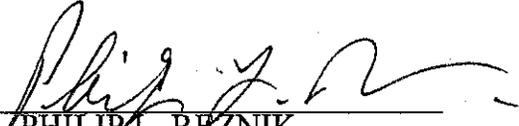
9 *Thompson is directly on point.* In *Thompson*, the Court affirmed summary judgment
10 against a White police officer who claimed that he suffered hostile work environment
11 harassment based on conduct that targeted an African American colleague. *Id.* at 876. Citing
12 with approval to several federal cases decided under Title VII, the court held that: 1) it
13 doubted that the White officer had any standing to sue for hostile work environment
14 harassment based on the alleged racially harassing conduct against a fellow officer, and 2)
15 even if he had standing, the White officer could not recover for a hostile work environment
16 based another officer's race unless he personally suffered harassment *because of his*
17 *association with the African American officer.* *Id.* at 876-78,

18 In so ruling, the court cited with approval to *Barrett v. Whirlpool Corp.* (6th Cir. 2009)
19 556 F.3d 502, 515 (“[O]nly harassment that was directed toward [Caucasian plaintiffs]
20 themselves or toward others who associated with or advocated on behalf of
21 African-American employees is relevant to our analysis, and only to the extent that
22 [plaintiffs] were aware of it.”); *Childress v. City of Richmond* (4th Cir. 1998) 134 F.3d 1205,
23 1207 (*en banc*) (affirming dismissal of a hostile working environment claim by White male
24 police officers who alleged gender and race-based harassment of Black and female members
25 of the police force for lack of standing); *Bermudez v. TRC Holdings, Inc.* (7th Cir. 1998) 138
26 F.3d 1176, 1180-81 (employee who observes workplace hostility but is not a member of the
27 class of persons at whom the harassment was directed may not bring a derivative claim for
28 the harassment”).

1 Here, Plaintiff has *not alleged* that he was harassed for associating with officers based
2 on the race or ethnic origin of those officers. Accordingly, under the binding authority of
3 *Thompson*, the alleged harassment of officers belonging to a protected classes other than
4 Armenians is in no way probative of Plaintiff's claim of harassment on the bases of his
5 Armenian ethnicity.

6
7 DATED: 6/6/11

BALLARD ROSENBERG GOLPER & SAVITT, LLP

8
9 By: 

PHILIP L. REZNIK

10 Attorneys for Defendant
11 CITY OF BURBANK, including the Police Department
12 of the City of Burbank
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GLENDALE, CA 91203

1 **PROOF OF SERVICE**

2 I am a citizen of the United States, and am employed in the County of Los
3 Angeles in the office of a member of the bar of this Court at whose directions this service
4 was made. I am over the age of 18, and not a party to the within action. My business address
is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor,
Glendale, California 91203-9946.

5 On June 6, 2011, I served the foregoing document described
6 as: **DEFENDANT'S REPLY IN SUPPORT OF MOTION IN LIMINE NO. 6 TO**
7 **EXCLUDE EVIDENCE OR ARGUMENT RELATING TO ANY PROTECTED**
8 **CLASS OF WHICH KARAGIOSIAN IS NOT A MEMBER, INCLUDING AFRICAN-**
9 **AMERICANS, HISPANICS, AND FEMALES** on the interested parties in this action, by
10 placing a true copy thereof in a sealed envelope addressed as follows:

11 Solomon E. Gresen, Esq.
12 Steven V. Rheuban, Esq.
13 Law Offices of Rheuban & Gresen
14 15910 Ventura Boulevard, Suite 1610
15 Encino, CA 91436
16 Tel: (818) 815.2727
17 Fax: (818) 815-2737
18 seg@rglawyers.com
19 Attorneys for Plaintiffs

20 **VIA FACSIMILE;** and

21 X

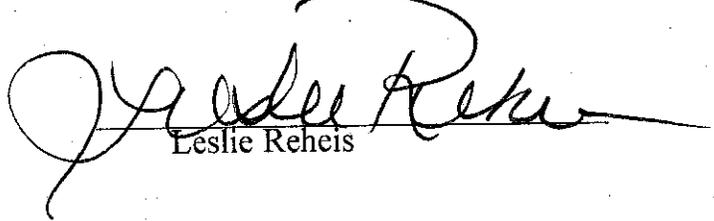
22 **(BY FEDEX)** I am "readily familiar" with the firm's practice of collection
23 and processing correspondence for delivery by Federal Express. Under that
24 practice, in the ordinary course of business, it would be deposited with
25 Federal Express on that same day with directions for next day delivery, with
26 the Federal Express fees guaranteed to be paid by Ballard, Rosenberg, Golper
27 & Savitt, LLP.

28 X

(BY ELECTRONIC MAIL) I sent the above-mentioned documents via
electronic mail addressed as set forth above.

 (BY PERSONAL SERVICE) I delivered such envelope(s) by hand to the
above-addressee(s).

21 I declare under penalty of perjury that the foregoing is true and correct under
22 the laws of the State of California. Executed on June 6, 2011 at Glendale, California.

23 
24 Leslie Reheis

28 BALLARD ROSENBERG GOLPER & SAVITT LLP
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